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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,169	03/17/2004	Thomas J. Bachinski	12929.1146US01	4145
7590	11/17/2006		EXAMINER	
Merchant & Gould P.C. P.O. Box 2903 Minneapolis, MN 55402-0903			PELHAM, JOSEPH MOORE	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,169

Applicant(s)

BACHINSKI ET AL.

Examiner

Joseph M. Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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The Examiner acknowledges Applicant's submission of the amendment filed 8/11/06. Claims 1 and 3-18 are now pending.

Claim Rejections - 35 USC § 102

Claims 1, 4, 5, 7, 9, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 6271504.

Referring to Figs. 1-4 and col. 3, line 21, through col. 4, line 49, US'504 discloses a cooking assembly comprising a "main body portion" 6, first grill 150 and second 43 heating surfaces, a first contoured heating element 105 above a "steel" reflective member, a second heating element embedded in the second heating surface, and a first hood member 80. The Examiner notes that the recitation, in claim 1, of "either the first of the second heating element receives power for operation at a given time," is merely an intended use; US'504 is capable of it and therefore meets the claim limitation.

Claim Rejections - 35 USC § 103

Claims 1, 3-11, and 13-16 rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 6437291 in view of US Pat. 6037571.

As noted in the previous Office action, US'291 discloses first grill 27 and second 25 cooking surfaces with embedded heater, the second being a "searing plate" which is conventionally "cast" and utilizes an aluminum alloy by reason of its excellent thermal conductivity, first 16 and second 17 hood members, and a single 110 V power source. A metallic member, "reflector," is conventionally placed beneath such heating elements to direct heat toward the food item (claim 5), and a 1000-1400 W second heating element is also well within the range of power ratings used in domestic cooking devices, hence both would be obvious to the artisan and do not patentably distinguish the claimed invention from the prior art. The claims differ substantively from US'291 only in calling for separately controlled first and second heating elements, and a refrigerator "stand" for the device..

Referring to Figs. 1 & 2, and col. 3, lines 23-38, US'571 discloses separately controlled first 50 and second 40 heating elements and a cabinet "stand" for a cooking grill. It would have been obvious to adapt the two heaters of US'571 to the grilling device of US'291 to enhance cooking versatility and control, and to replace the cabinet with a refrigerator for convenient storage of foods to be cooked. While US'571 does not explicitly disclose a light, this would have been an obvious adjunct commended by its necessity while cooking during or after the twilight evening hours.

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17 and 18 are allowed.

Response to Arguments

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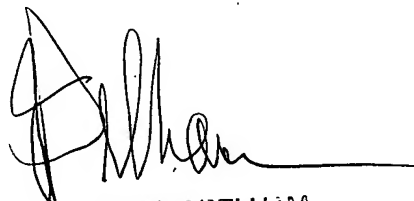
Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

11/6/06

A handwritten signature in black ink, appearing to read 'J. Pelham', with a long horizontal line extending to the right.

JOSEPH PELHAM
PRIMARY EXAMINER